IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 750 of 2004 (S/S)

Mahendra Singh Dhanik
S/o Sri Mohan Singh Dhanik
Presently posted as Assistant Teacher
In Primary School, Rawalkhet, Block Berinag,
District - Pithoragarh ……..Petitioner

Versus

1. State of Uttaranchal
through the Director of Education, Basic Education,
Uttaranchal Shasan, Dehradun

2. Secretary, Basic Shiksha Parishad,
Uttaranchal, Dehradun

3. Basic Shiksha Adhikari, Pithoragarh
……Respondents

Sri K.N. Joshi, learned counsel for the petitioner.
Sri Paresh Tripathi leaned Standing Counsel for the respondents.

Hon'ble B.C. Kandpal, J.

By way of this Writ Petition, a direction has been sought in the nature of mandamus commanding the respondents to make the payment of salary to the petitioner including other admissible allowances from the date of appointment as shown in he advertisement/ appointment notification dated 02.02.1993 (annexue-1to this writ petition). Another direction has also been sought in the nature of mandamus directing the respondents to make the payment of salary to the petitioner as trained scale like other teaches who have been appointed in pursuance of the advertisement/appointment notification dated 02.02.1993.

Brief facts giving rise to this writ petition are that the petitioner is presently posted as Assistant Teacher Primary Schools. The Basic Shikaha Adhikari,

Pithoragarh issued an advertisement on 02.02.1993 with regard to make appointment on the post of Assistant Teacher in B.T.C. pay scale Rs. 1100-1710 including other admissible allowances for the teacher in primary schools. The qualification with regard to the appointment of the aforesaid post for the Assistant Teacher was C.P.Ed/C.T. training and in pursuance of the aforesaid interview held on 15.03.1993 by Basic Shiksha Adhikari, the qualified candidates were given appointment on the post of Assistant Teacher for primary schools. At the time of making the aforesaid appointment, the persons holding qualification of C.P.Ed from Amrawati were not accepted and not given appointment. Hence, several persons approached the Hon'ble High Court of Allahabad under Article 226 of the Constitution for issuing direction to accept their candidature.

The Hon'ble Allahabad High Court directed the respondents to appoint qualified candidates on the post of the Assistant Teacher, hence, the petitioner is also appointed on the post of Assistant Teacher on 18.03.1996. The petitioner is thereafter working continuously on the post of Assistant Teacher.

On 01.01.1993 Director of Education Basic Shiksha Parishad issued letter to Basic Shiksha Adhikari directing them to appoint C.P.Ed. candidates like C.T. and C.P.Ed teacher to be treated equivalent to the C.T. trained teacher.

The petition further reveals that similar other teachers who are qualified like the petitioner are working on the same post and discharging same duties are being paid salary of Rs. 1100-1710 (revised time to time) where the petitioner is being paid only Rs. 850/- p.m. It has been

averred that the petitioner has made various efforts but all in vain. It has also been averred in the writ petition that similar controversy arose in writ petition no. 1243 of 2001 (S/S) Dinesh Singh Rawat and others Vs. State and others and the court was pleased to allow the writ petition with the direction to the respondents to give pay difference to the petitioner form initial date of appointment. Hence the petitioner has also filed this writ petition for issuing the direction to the respondents to make the payment of salary to the petitioner with the pay scale of Rs. 1100-1710 (revised time to time) including other admissible allowance from the date of appointment.

Heard learned counsel for the petitioner as well as learned Standing Counsel and perused the record.

As per the submission advanced by the learned counsel for the petitioner, the appointment was made in pursuance to the advertisement, issued by the respondents in the year 1993 and some of the persons who were appointed in pursuance of the same advertisement are being paid regular pay scale from their initial appointment, therefore, in case, if the petitioner is having equal qualifications as well as discharging the same duties, are also entitled to get the same pay scale.

Learned counsel for the petitioner has also invited my attention towards the annexure 7 to the writ petition which is a letter issued by the Education Director Uttaranchal, Dehradun to the District Basic Shiksha Adhikari, Pithoragarh directing therein that the 42 Assistant Teachers posted in different primary schools should be paid difference of pay.

This letter has been issued by the Director of Education to his subordinates in compliance of the order

passed by the High Court during the pendency of the Contempt Petition.

In the light of the aforesaid letter as well as the judgment passed by this court which has been quoted earlier, I think that this writ petition is also to be allowed.

With the result, the respondent are directed to pay differences of pay to the petitioner within a period of six weeks from the date of production of certified copy of this order.

No order as to costs.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

24th June, 2005
Shiv